

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:14-cv-00142-MR-DLH**

**ROBERT M. PITTS, Trustee in  
Bankruptcy for Sharon Ford,**

**Plaintiff,**

**vs.**

**ALL-DRY OF THE CAROLINAS, INC.,  
OWNERS INSURANCE COMPANY,  
and AUTO-OWNERS INSURANCE  
COMPANY,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court on the Plaintiff's Response to Order to Show Cause Dated October 6, 2014 [Doc. 10].

The Plaintiff initiated this action in the Haywood County General Court of Justice, Superior Court Division, on May 7, 2014 against three defendants: All-Dry of the Carolinas, Inc. ("All-Dry"), Owners Insurance Company ("Owners Insurance"), and Auto-Owners Insurance Company ("Auto-Owners Insurance"). [Doc. 1-1]. Defendants Owners and Insurance and Auto-Owners Insurance ("the removing Defendants") filed a Notice of Removal on June 6, 2014. [Doc. 1]. In their Notice of Removal, the removing Defendants note that there is nothing in the State court file

indicating or otherwise suggesting that All-Dry had been served with process in the State court action. [Id. at 2]. More than 120 days passed from the filing of the Notice of Removal, and the Plaintiff had still not filed anything to indicate that service was effected on All-Dry. Accordingly, on October 6, 2014, the Court entered an Order directing the Plaintiff to show cause for his failure to effect service on this Defendant. [Doc. 9].

The Plaintiff now responds to the Show Cause Order, stating that All-Dry was served on May 12, 2014, prior to removal from state court on June 6, 2014. [Doc. 10]. The Affidavit of Service was signed by Plaintiff's counsel on May 27, 2014 but was not filed with the federal court. Instead, Plaintiff's counsel filed the Affidavit of Service with the state court on June 10, 2014, four days after the action was removed.

While the Plaintiff has presented evidence to indicate that All-Dry has been served, he has failed to take any further action with respect to this Defendant.

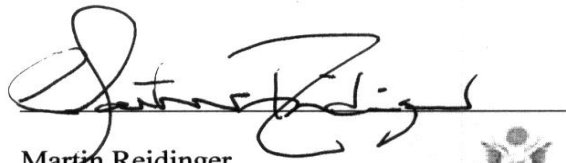
Accordingly, **IT IS, THEREFORE, ORDERED** that the Show Cause Order [Doc. 9] is hereby **DISCHARGED**.

**IT IS FURTHER ORDERED** within fourteen (14) days of the entry of this Order, the Plaintiff shall file an appropriate motion or otherwise take further action with respect to Defendant All-Dry of the Carolinas, Inc. The

Plaintiff is advised that failure to take further action against All-Dry will result in the dismissal of this Defendant.

**IT IS SO ORDERED.**

Signed: October 15, 2014

  
Martin Reidinger  
United States District Judge

